



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

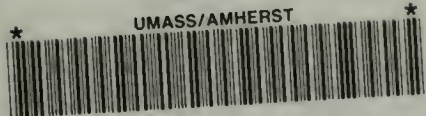
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OC PF-IB-105
September 16 1988
SUPERSEDES OCPF-IB-104

INTERPRETATIVE BULLETIN

The Applicability of the Campaign Finance Law to
Organizations Other Than Political Committees

This office has determined that it is necessary to issue this interpretative bulletin so that all organizations will be aware of the level at which their campaign finance activity will become subject to the provisions of M.G.L. c. 55, the campaign finance law. These guidelines balance the public interest of disclosure and regulation of campaign finance activity in Massachusetts with the administrative and legal burdens imposed on persons participating financially in the Commonwealth's political process.

These guidelines apply to any group of persons, association or other type of organization, including a non-profit or so-called c.180 corporation. Where specific reporting and disclosure provisions of M.G.L. c.55 are applicable, reference is so made. Where there is no such reference, this bulletin will describe in detail applicable disclosure and reporting requirements. These guidelines do not address expenditures made by business corporations, which sections 8 and 22 of M.G.L. c.55 regulate, nor political committees, whether such committees are organized in Massachusetts or elsewhere.

When is an organization a political committee?

The campaign finance law defines a political committee as "any committee, association, organization or other group of persons, including a national, regional, state, county or municipal committee, which receives contributions or makes expenditures for the purpose of influencing the nomination or election of a candidate, or candidates . . . or for the purpose of opposing or promoting a charter change, referendum question, constitutional amendment, or other question submitted to the voters."

The longstanding and consistent position of this office has been that, if an organization solicits or receives any

money or other thing of value for political purposes, the organization is functioning as a political committee, subject to the provisions of the campaign finance law as of the date of the solicitation or receipt of such money or other thing of value. This office has further advised that an organization, which is neither soliciting nor receiving contributions for political purposes but which is making expenditures for such purposes, will be treated as a political committee in certain respects only if its political expenditures are more than incidental.

What are more than incidental political expenditures?

This office will consider any political expenditures by an organization to be more than incidental if such expenditures (1) are for the purpose of aiding, promoting or preventing the nomination or election of any person to public office, or aiding or promoting or antagonizing the interest of any political party and (2) exceed, in aggregate, in a calendar year, either ten percent (10%) of such organization's gross revenues for the previous calendar year, or fifteen thousand dollars (\$15,000), whichever is less (the "incidental threshold").

Expenditures which will be included in the determination of whether the incidental threshold has been met are contributions to or liabilities incurred on behalf of candidates or their political committees, multi-candidate committees and the political committees of political parties, as well as direct or indirect expenditures to promote or oppose such persons or committees, including independent expenditures as defined in section 18A of M.G.L. c.55. For the purposes of this interpretative bulletin, any liability incurred by an organization will be included in the computation of the incidental threshold for the calendar year in which it is incurred even if the actual expenditure to discharge such liability is not made until a later calendar year.

Expenditures which will not be included in the incidental threshold analysis are those which are (1) not related to the nomination or election of Massachusetts state, county or municipal candidates, (2) not made to political committees organized in Massachusetts (3) made to the federal account of a political committee of a political party, (4) made to discharge liabilities incurred in a previous calendar year and (5) made for the purpose of opposing or promoting a charter change, referendum question, constitutional amendment or other question submitted to the voters, irrespective of whether such question appears on a Massachusetts ballot or elsewhere. Expenditures made by organizations for Massachusetts ballot questions will be discussed at greater length below.

Consequences of meeting the incidental threshold

Previously, this office considered an organization whose expenditures exceeded the incidental threshold to be a political committee as of the date the threshold was reached. Such an organization then became subject to all reporting and disclosure requirements applicable to political committees, including those requiring the disclosure of the source of all funds in its general treasury and the disposition of residual funds in its general treasury to the Local Aid Fund upon dissolution. This office believes that such a strict interpretation of the campaign finance law places an extraordinary burden on organizations which are not otherwise acting as political committees, i.e. they are not soliciting or receiving monies for political purposes, without achieving a concomitant compelling governmental objective in regulating the political process.

This office will require an organization which has once made expenditures or incurred liabilities in excess of the incidental threshold to submit reports with this office in accordance with the schedule set forth in section 18(e) of M.G.L. c.55 until such reports indicate that the aggregate political expenditures by such organization for the previous calendar year are equal to or less than ten percent of the gross revenues of such organization for such year or \$15,000, whichever is less. Such report shall be on a form prescribed by this office, Form CPF 11 (a copy of which is attached), and shall (1) state the name and address of the organization making the expenditure or expenditures and the name, address and title of each principal officer of such organization; (2) the total revenue of such organization in the previous calendar year; (3) the incidental threshold amount (ten percent (10%) of such organization's gross revenues or \$15,000, whichever is less) reached by such organization; (4) list separately any (a) contribution to a Massachusetts state, county or municipal candidate or such candidate's political committee, (b) contribution to a multi-candidate committee organized in Massachusetts, (c) contribution to a political committee of a political party organized in Massachusetts (but excluding all contributions made to the federal account of such committee), (d) direct or indirect expenditure to promote or oppose any Massachusetts state, county or municipal candidate or committee organized in Massachusetts and (e) independent expenditure as defined in section 18A of M.G.L. c.55; (5) the name and address of the person to whom the contribution or expenditure listed in (4) was made; (6) the value of the contribution or expenditure listed in (4); (7) the purpose of any expenditure listed in (4); (8) the date of any contribution or expenditure listed in (4); and (9) the amount and date of each then existing liability remaining unfulfilled and in force when the report is made, the name

and address of the person to whom the liability exists, and a clear statement of the purpose for which it was incurred. The organization must list all political expenditures on Form CPF 11: those which are included in the incidental threshold analysis as well as those incurred after such threshold is met.

All political expenditures made after the incidental threshold is met shall be subject to the \$1,000 contribution limitation set forth in section 6 of M.G.L. c.55.

A duly qualified officer of the organization shall sign each report filed with the office. The obligation to file a report shall accrue as of the date the organization's expenditures exceed the incidental threshold. The organization shall file reports with this office until such reports indicate that the aggregate political expenditures by such organization for the previous calendar year are equal to or less than ten percent of the gross revenues of such organization for such year or \$15,000, whichever is less.

Ballot question expenditures

Historically, this office considered expenditures for the purpose of opposing or promoting a charter change, referendum question, constitutional amendment or other question submitted to the voters made by an organization to be subject to the incidental threshold analysis described above. By grouping such ballot question expenditures with other political expenditures, this office believes that unintentional limits may have been placed on such ballot question expenditures.

While this office will no longer mandate that an organization include ballot question expenditures in calculating the incidental threshold, it will require any organization making a ballot question expenditure to disclose such expenditure in a manner similar to that required of other persons making like expenditures. This office will now therefore require a duly qualified officer of any organization which has given, paid, expended or contributed, or promised to give, pay, expend or contribute, any money or any valuable thing in order to influence or affect the vote on any question submitted to the voters to file a report, on a form prescribed by this office, Form CPF 12 (a copy of which is attached), setting forth the amount or value of every gift, payment, expenditure or contribution or promise to give, pay, expend or contribute, together with the date, purpose, and full name and address of the person to whom it was made. Such report shall be filed as follows: (1) the sixtieth day prior to the election complete as of the preceding fifth day; (2) on or before the fifth day and twentieth day of each month complete as of the preceding

first and fifteenth day of the month, until the election, and (3) thereafter, on the fifth day of each month until all declared liabilities have been discharged. Any organization which is a non-profit or so-called c.180 corporation shall not be subject to these guidelines but shall remain governed by section 22 of M.G.L. c.55 with respect to ballot question expenditures.

Each organization subject to these guidelines shall keep records of its political expenditures, including ballot question expenditures, for six years following the date of relevant election, or for such period as may be specified from time to time in section 5 of M.G.L. c.55 for political committees.

Failure to meet the limitation, disclosure and reporting requirements of these guidelines may subject an organization to penalties imposed by the campaign finance law.

